

**OPINION
46-157**

December 9, 1946 (OPINION)

INTOXICATING LIQUOR

RE: Sale by Airlines

This will acknowledge receipt of your letter of December 2, 1946 in which you request a license for the transportation of alcoholic beverages into and within the State of North Dakota in accordance with the provisions of Chapter 5-04 of the North Dakota Revised Code of 1943.

The section relative to your request reads as follows:

Any railroad company, dining car company, or sleeping car company, operating in this State may transport, import, handle, possess, purchase, sell, and dispense liquor as defined by section 5-0101, upon any dining car, buffet or observation or cafe car, where meals or lunches are served, in the manner and pursuant to the regulations and restrictions contained in this chapter. Sales shall be made only to bona fide passengers."

It is my opinion that airline companies are not included within the definition of a railway company, dining car company, or sleeping car company and therefore, the state treasurer's office does not possess the authority to grant your request.

It is probable that legislative action must first be taken to amend the chapter concerned before such licenses can be issued to Airlines passing through or operating in North Dakota.

NELS G. JOHNSON

Attorney General